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*in opinion*

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CONCORD, N.H.

December 19, 1957

Mr. Frederick N. Clarke  
Commissioner of Motor Vehicles  
State House Annex  
Concord, New Hampshire

Dear Mr. Clarke:

Some time ago you handed to me a file of material from your office bearing upon certain aspects of the reciprocal motor vehicle relationships between this State and the State of Florida, and you inquired our opinion upon the same. Included within your file was a copy of a letter from Justice William F. Harrington, Jr., of the Municipal Court of New Castle, dated October 23, 1957, together with copies of certain correspondence which you have had with Florida officials. We regret our delay in answering your inquiry; and we trust that you have not been seriously inconvenienced thereby.

The problem contained in the matter before us arises because of the operation of the Florida motor vehicle law which, we are informed, requires that forthwith upon a non-resident's taking gainful employment in Florida or entering a child in school there, he must secure both an operator's license and automobile registration from that State in order to be allowed to operate upon her highways.

In this situation the question becomes precisely what are the rights of residents of Florida in like circumstances in this State. In this regard, reference is had to RSA 261:18, which grants a broad recognition to out-of-state motor vehicle registrations, and to RSA 261:19 which in rather express terms accords full local rights to non-resident operators duly licensed in the states of their residence.

We believe that the intention of the Legislature in the area of reciprocal rights with respect to motor vehicle operators is fully and specifically manifested in a controlling fashion in RSA 260:40. This section governs the entire body of statutory law relating to non-resident privileges; and, with the remainder of such statutes announces, in effect, that while New Hampshire offers exceedingly liberal terms

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to the residents of each of the other states, enjoyment of them is conditioned upon our residents being accorded like privileges in the state of origin of a given non-resident. RSA 260:40, in order to carry out its patent purpose, grants authority to the Commissioner when warranted by the facts and occasioned by the law of another state, by rule or regulation to limit the reciprocal rights otherwise generally granted in so far as residents of such other state are concerned.

We would emphasize, however, that such limiting ought, by the express terms of the statute, to be done by specific rule or regulation over the hand of the Commissioner. The wisdom of the statutory requirement in this regard is obvious when it is recognized that the action of the Commissioner may have the effect of modifying statutory law as applied to certain classes of persons.

In the present circumstances you may wish to promulgate appropriate rules and regulations in order that there may apply to residents of Florida temporarily here the same limitations upon reciprocal privileges as apply to New Hampshire residents while in Florida.

Your file is returned.

Very truly yours,

Warren E. Waters  
Deputy Attorney General

WEW/aml  
Encl.